



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF WATER QUALITY

5/047/064
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MINE

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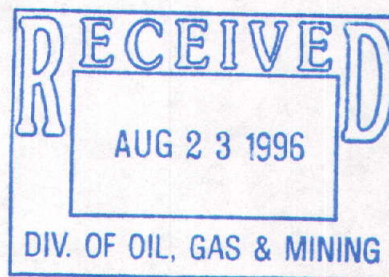
Don A. Ostler, P.E.
Director

288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
(801) 538-6146 Voice
(801) 538-6016 Fax
(801) 536-4414 T.D.D.

August 20, 1996

CERTIFIED MAIL
(Return Receipt Requested)

James M. Lekas, President
Lexco Incorporated
P.O. Box 1198
Vernal, Utah 84078



Dear Mr. Lekas:

Subject: UPDES Permit UT0025259, Lexco Incorporated

Enclosed is UPDES permit No. UT0025259 for your facility. Copies of EPA form 3320-1, Discharge Monitoring Report (DMR) forms, for reporting and self-monitoring requirements as specified in the permit, will be sent as soon as printed. This permit will become effective on September 1, 1996, subject to the right of appeal in accordance with the provisions of *Utah Administrative Code*, Sections R317-8-6.11 and R317-8-6.13.

A fee schedule was included in the Utah Department of Environmental Quality Budget appropriation request at the direction of the Legislature and in accordance with *Utah Coded Annotated* 19-1-201. The fee schedule, as approved by the legislature, includes a prescribed fee for specific Industrial Categories. The prescribed fee for a Mineral Mining category, Utah Pollutant Discharge Elimination System permit is \$ 1,800.00. Please remit \$ 1,800.00 within 30 days from receipt of this letter to:

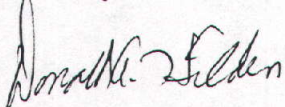
Dept. of Environmental Quality
Division of Water Quality
Attn: Rose Griffin
288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870



Also, as the State agency charged with the administration of issuing UPDES Permits, we are continuously looking for ways to improve our quality of service to you. In effort to improve the State UPDES permitting process we are asking for your input. Since our customer permittee base is limited, your input is important. Please take a few moments to complete the enclosed questionnaire and return it in the postage paid, self-addressed return envelope. The results will be used to improve our quality and responsiveness to our permittees and give us feed back on customer satisfaction. We will address the issues you have identified on an ongoing basis.

If you have any questions with regard to this matter, please contact Shelly Chamberlain at (801) 538-9449.

Sincerely,



Donald A. Hilden, Ph.D., Manager
Permits and Compliance Section

KC/kc

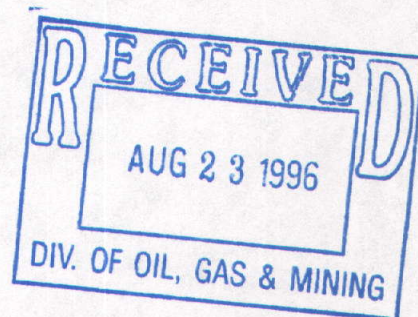
Enclosures

cc: Mike Reed, Permits Team Leader (8P2-W-P), U.S. EPA Region VIII (w/encl)
Lowell Card, Uintah Basin Public Health Dept. (w/encl)
Ted Allen, District Engineer (w/encl)
Division of Oil, Gas, and Mining (w/encl)
Rose Griffin, DWQ Accounts (w/o encl)

**STATEMENT OF BASIS
LEXCO INCORPORATED
UPDES PERMIT NUMBER: UT0025259
NEW PERMIT
MINOR INDUSTRIAL**

FACILITY CONTACT

Mr. James Lekas, President
Lexco, Inc.
P.O. Box 1198
Vernal, UT 84078
(801) 789-5361
Fax: (801) 582-2945



DESCRIPTION OF FACILITY

Lexco Incorporated (Lexco) is a mineral (gilsonite, or the mineral name uintahite) mine. Lexco is located in the basin south of Ouray in Uintah County, Utah, **latitude 39°55'02"** and **longitude 109°36'52"**. The facility has Standard Industrial Classification (SIC) code 1499, Miscellaneous Nonmetallic Minerals, Except Fuels.

Gilsonite, a bituminous shale solid aromatic asphaltite, is mined underground by hand in vertical shafts by pneumatic chipping hammers and conveyed to the surface through a centrifugal blower. Gilsonite is composed of carbon, hydrogen, nitrogen, sulfur, and oxygen. Gilsonite is used as a component of many paints and varnishes. It is inert and has no known environmental or toxicological effects.

DESCRIPTION OF DISCHARGE

Since this is a new source, there is no historical data on the effluent quality. **A single sample submitted with the application as baseline monitoring showed elevated pH and total suspended solids in the effluent.** Future treatment may be required to meet the effluent limitations herein. The flow is estimated to be about 2000 gallons per day.

RECEIVING WATERS AND STREAM CLASSIFICATION

The discharge flows into a dry wash, a tributary of Willow Creek. The dry wash is over three miles from the confluence with Willow Creek and does not have a stream classification. Willow Creek is Class 2B, 3C and 4 from the headwaters to the confluence with the Green River according to *Utah Administrative Code (UAC) R317-2-13*:

- | | |
|----------|--|
| Class 2B | -protected for secondary contact recreation (boating, wading and similar uses). |
| Class 3C | -protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain. |

Class 4 -protected for agricultural uses including irrigation of crops and stockwatering.

BASIS FOR EFFLUENT LIMITATIONS

Applicable technology based standards for Mineral Mining and Processing Point Source Category, Asphaltic Minerals are found in 40 CFR 436.60. The standard prohibits the discharge of water used in the processing and refining of gilsonite. The ground water discharged at outfall 001 is not produced from processing activities so it does not apply to the categorical prohibition.

The pH and TSS limits are based on current Utah Secondary Treatment Standards, *UAC R317-1-3.2*. Attachment A contains a Wasteload Analysis - Total Maximum Daily Load for several parameters. However, as Lexco does not have a reasonable potential to exceed the water quality criteria, these pollutants are not limited in the permit. The TDS concentration and mass limits are based on the *Colorado River Basin Salinity Control Forum* guidelines.

Effluent Limitations

<u>Parameter</u>	<u>30-day Average</u>	<u>7-day Average</u>	<u>Daily Min</u>	<u>Daily Max</u>
TSS, mg/L	25	35	N.A.	N.A.
pH, standard units	N.A.	N.A.	6.5	9.0
TDS, mg/L	N.A.	N.A.	N.A.	3500

The TDS from outfall 001 shall not exceed one ton per day.

The permittee shall be required to conduct weekly visual oil and grease inspections.

SELF-MONITORING AND REPORTING REQUIREMENTS

The following effluent self-monitoring and reporting requirements are based on the *Utah Monitoring, Recording and Reporting Frequency Guidelines* as effective December 1, 1991. Reports shall be made on Discharge Monitoring Report (DMR) forms, and are due 28 days after the end of the quarter.

Self-Monitoring and Reporting Requirements

<u>Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>	<u>Units</u>	<u>Reporting Frequency</u>
Total Flow	Quarterly	Calculated	MGD	Quarterly
TSS	Quarterly	Grab	mg/L	Quarterly
pH	Quarterly	Grab	standard units	Quarterly
TDS	Quarterly	Grab	mg/L	Quarterly
TDS	Quarterly	Calculated	pounds/day	Quarterly
Oil and Grease	Weekly	Visual	yes/no	Quarterly

STORM WATER REQUIREMENTS

Lexco is a minor facility with no on-site chemical storage so a Best Management Practices Plan will not be required. In addition, storm water requirements will not be included in the permit as per Appendix B, memo from Harry Campbell.

PRETREATMENT REQUIREMENTS

Any process wastewater that the facility may discharge to the sanitary sewer, either as direct discharge or as a hauled waste, is subject to federal, state and local pretreatment regulations. Pursuant to section 307 of the Clean Water Act, the permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated, found in 40 CFR section 403, the State Pretreatment Requirements found in UAC R317-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.

BIOMONITORING REQUIREMENTS

As part of a nationwide effort to control toxics, biomonitoring requirements are being included in all major permits and in minor permits for facilities where effluent toxicity is an existing or potential concern. Authorization for requiring effluent biomonitoring is provided for in UAC R317-8-4.2 and R317-8-5.3. *The Whole Effluent Toxicity (WET) Control Guidance Document*, February 15, 1991, outlines guidance to be used by Utah Division of Water Quality staff and by permittees for implementation of WET control through the UPDES discharge permit program.

Lexco is a minor facility and its discharge is not likely to be toxic, therefore, biomonitoring of the effluent will not be required. A toxicity reopener will be included in the permit, and WET testing and limits can be required if found to be appropriate in the future.

PERMIT DURATION

It is recommended that this permit be effective for a duration of five (5) years.

Drafted by Shelly Chamberlain
Environmental Engineer
Utah Division of Water Quality
Drafted April 26, 1996

Reviewed by Storm Water Coordinator, June 28, 1996

Reviewed by Water Quality Management Section, April 26 - June 27, 1996

Reviewed by Permitting and Compliance Section Manager, June 28, 1996

Reviewed by Permitting, Compliance and Monitoring Branch Manager, July 2, 1996

Division of Water Quality Watershed Analysis Request

[The request provides the input (data) for the unshaded boxes only.]

Date: 4/26/96 Request
6/25/96 Due

Name of Facility:

UPDES Number:

Initial Elevation, ft.:

Lexco, Inc

0025259

5200

Valley Elev. Drop 2 feet/mile

Season: Summer

Name of Receiving Water:

All Classifications of Receiving Water:

Controlling Aquatic Life Classification:

Also Classified as Agriculture [Class 4]?:

Direct Drinking Water Source w/o Treatment?:

Dry Wash -> Willow Creek -> Price River

2B, 3C, 4

3C

Yes

No

Yes or No

[For Graph Display]

Consider Toxics:

No

Hardness of Receiving Water:

Is TDS being evaluated:

300

No

Stream Bottom

Stream Sinuosity

Stream W/D Ratio:

Zone of Initial Dilution for Acute Calculations:

2

2

10

10%

1=Clay 2=Sand 3=Rocks 4=Marsh

1= Straight 2= Some Curves 3= Winding

Background Concentrations:

Season	Stream Flow	Temp.	pH [Downstream]	T-NH3	BOD	DO @ 90% Sat.	TRC
Summer	0.0031	20.00	8.20	0.05	0.50	6.73	0.00
Fall/Spring	0.0031	12.00	8.10	0.05	0.50	6.73	0.00
Winter	0.0031	4.00	8.00	0.05	0.50	6.73	0.00

All Seasons

Background Conc.

Background Conc.

Background Conc.

Aluminum ug/l	Arsenic ug/l	Cadmium ug/l	ChromIII ug/l	ChromVI ug/l	Copper ug/l	Iron mg/l	Lead ug/l
Mercury ug/l	Nickel ug/l	Selenium ug/l	Silver ug/l	Zinc ug/l		TDS mg/l	Boron mg/l
						300	10
	Nitrate mg/l	T-Phos. mg/l					

Discharge Information

30-day averages from DMR's if available/applicable in mg/l.

If not applicable put NA in each box.

Season	Flow, MGD	Flow, cfs	Temp., Deg. C	BOD	TNH3	TRC
Summer	0.002	0.0031	12.70	0.50	0.05	0.00
Fall/Spring	0.002	0.0031	11.50	0.50	0.05	0.00
Winter	0.002	0.0031	10.00	0.50	0.05	0.00

All Seasons

Design Design / Other

Hardness

mg/l as CaCO3

300

USGS, 1981

These Values are for the:

Set Discharge Effluent D.O. to:

Set Discharge Effluent BOD to:

Summer

5.50

25.00

Permit Writer:

Shelly Chamberlain



State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Don A. Ostler, P.E.
Director

FILE COPY

MEMORANDUM

TO: Shelly Chamberlain

FROM: Harry Campbell

DATE: June 28, 1996

SUBJECT: Storm water permitting of Lexco, Inc.

I have not seen but I understand as you have explained from your inspections that there is no exposure of storm water to overburden, raw material, intermediate products, finished products, byproducts or waste products at the mining site of Lexco, Inc. That being the case they do not need a storm water permit (*Utah Administrative Code R317-8-3.8(6)(d)3*).

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM
(UPDES)

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

LEXCO INCORPORATED

is hereby authorized to discharge from its facility located at Uintah County, Utah with the outfall located at latitude **39°55'52"** and longitude **109°36'52"**,
to receiving waters named

Dry Wash

in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on September 1, 1996.

This permit and the authorization to discharge shall expire at midnight, August 31, 2001.

Signed this 20th day of August, 1996.

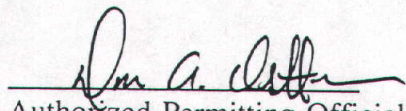

Authorized Permitting Official
Executive Secretary
Utah Water Quality Board

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Definitions.

1. The "30-day (and monthly) average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. The "7-day (and weekly) average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
3. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
4. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
5. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
6. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
7. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
8. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
9. "EPA" means the United States Environmental Protection Agency.
10. "Act" means the "*Utah Water Quality Act*".
11. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.

B. Description of Discharge Point(s).

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit is a violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an

unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the Act.

Outfall Number

001

Location of Discharge Point(s)

Discharge outfall located at latitude 39°55'52" and longitude 109°36'52"

C. Narrative Standard.

It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or conditions which produce undesirable aquatic life or which produces objectionable tastes in edible aquatic organisms; or concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

D. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristics</u>	<u>Discharge Limitations a/</u>			<u>Monitoring Requirements</u>	
	<u>Average</u>	<u>Daily</u>	<u>30-Day 7-Day Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow, MGD	NA	NA	NA	Quarterly	Calculated
Total Suspended Solids, mg/L	25	35	NA	Quarterly	Grab
Total Dissolved Solids, mg/L	NA	NA	3500	Quarterly	Grab
Total Dissolved Solids, tons/day	NA	NA	1	Quarterly	Calculated

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored quarterly by a grab sample.

There shall be no visible sheen or floating solids or visible foam in other than trace amounts. A visual observation for oil and grease shall be monitored weekly.

There shall be no discharge of sanitary wastes.

N.A. - Not Applicable.

a/ See Definitions, Part I.A for definition of terms.

2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): at the outfall discharge prior to entering the receiving water.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous quarter shall be summarized for each quarter and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on OCTOBER 28, 1996. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part IV.G)*, and submitted to the Director, Division of Water Quality and to EPA at the following addresses:
- original to: Department of Environmental Quality
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, Utah 84114-4870
- copy to: Technical Enforcement Program (8ENF-T)
Office of Enforcement, Compliance Assistance & Environmental Justice
US EPA Region VIII
999 18th Street, Suite 500
Denver, CO 80202-2466
- E. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- F. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- G. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) and time(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and,
 6. The results of such analyses.
- H. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Secretary at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.
- I. Twenty-four Hour Notice of Noncompliance Reporting.
1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 538-6146, or 24 hour answering service (801) 536-4123.
 2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See *Part III.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
 3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
- 4. The Executive Secretary may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 538-6146.
- 5. Reports shall be submitted to the addresses in *Part II.D, Reporting of Monitoring Results*.
- J. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part II.D* are submitted. The reports shall contain the information listed in *Part II.1.3*.
- K. Inspection and Entry. The permittee shall allow the Executive Secretary, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 - 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
 - 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under UCA 19-5-115(2) a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at Part III.G, *Bypass of Treatment Facilities* and Part III.H, *Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section. Return of removed substances, as described in Part III.F, to the discharge stream shall not be considered a bypass under the provisions of this paragraph.
 2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under *Part II.I, Twenty-four Hour Reporting*.
- 3. Prohibition of bypass.
 - a. Bypass is prohibited and the Executive Secretary may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage ;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
 - (3) The permittee submitted notices as required under paragraph 2 of this section.
 - b. The Executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed above in paragraph 3.a of this section.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. Executive Secretary's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
- 2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part II.I, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d. The permittee complied with any remedial measures required under *Part III.D, Duty to Mitigate*.
- 3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Executive Secretary as soon as the permittee knows of, or has reason to believe:
1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
- K. Industrial Pretreatment. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

IV. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Executive Secretary of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Executive Secretary, within a reasonable time, any information which the Executive Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Executive Secretary, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Executive Secretary, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Executive Secretary shall be signed and certified.
 - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 - 2. All reports required by the permit and other information requested by the Executive Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Executive Secretary, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having

overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

3. Changes to authorization. If an authorization under paragraph IV.G.2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.G.2 must be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under UAC R317-8-3.2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Executive Secretary. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the Act.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Executive Secretary at least 20 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Executive Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117*.
- O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.
- Q. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".